

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:) Chapter 11
)
W.R. Grace & Co., et al.,) Case No. 01-01139 (JKF)
) Jointly Administered
Debtors.¹)
)

**RESPONSE OF CSX TRANSPORTATION INC. TO THE DEBTORS'
SEVENTEENTH OMNIBUS OBJECTION TO CLAIMS (SUBSTANTIVE)**

CSX Transportation Inc. ("CSX"), by counsel, hereby submits its response (the "Response") to the Debtors' Seventeenth Omnibus Objection to Claims (Substantive) (the "Claim Objection"), and respectfully states as follows:

STATEMENT OF FACTS

1. On April 2, 2001, W.R. Grace & Co. and numerous of its subsidiaries and affiliates (the "Debtors") filed voluntary chapter 11 bankruptcy petitions in the United

¹ The debtors are W.R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc.), W.R. Grace & Co.-Conn., A-1 Bit & Tool Co., Inc., Alewife Boston Ltd., Alewife Land Corporation, Amicon, Inc., CB Biomedical, Inc. (f/k/a Circe Biomedical, Inc.), CCHP, Inc., Coalgrace, Inc., Coalgrace II, Inc., Creative Food 'N Fun Company, Darex Puerto Rico, Inc., Del Taco Restaurants, Inc., Dewey and Almy, LLC (f/k/a Dewey and Almy Company), Ecarg, Inc., Five Alewife Boston Ltd., G C Limited Partners I, Inc. (f/k/a Grace Cocoa Limited Partners I, Inc.), G C Management, Inc. (f/k/a Grace Cocoa Management, Inc.), GEC Management Corporation, GN Holdings, Inc., GPC Thomasville Corp., Gloucester New Communities Company, Inc., Grace A-B Inc., Grace A-B II Inc., Grace Chemical Company of Cuba, Grace Culinary Systems, Inc., Grace Drilling Company, Grace Energy Corporation, Grace Environmental, Inc., Grace Europe, Inc., Grace H-G Inc., Grace H-G II, Inc., Grace Hotel Services Corporation, Grace International Holdings, Inc. (f/k/a Dearborn International Holdings, Inc.), Grace Offshore Company, Grace PAR Corporation, Grace Petroleum Libya Incorporated, Grace Tarpon Investors, Inc., Grace Ventures Corp., Grace Washington, Inc., W.R. Grace Capital Corporation, W.R. Grace Land Corporation, Gracoal, Inc., Gracoal II, Inc., Guanica-Caribe Land Development Corporation, Hanover Square Corporation, Homco International, Inc., Kootenai Development Company, L B Realty, Inc., Litigation Management, Inc. (f/k/a GHSC Holding, Inc., Grace JVH, Inc., Asbestos Management, Inc.), Monolith Enterprises, Incorporated, Monroe Street, Inc., MRA Holdings Corp. (f/k/a Nestor-BNA Holdings Corporation), MRA Itermedco, Inc. (f/k/a Nestor-BNA, Inc.), MRA Staffing Systems, Inc. (f/k/a British Nursing Association, Inc.), Remedium Group, Inc. (f/k/a Environmental Liability Management, Inc. E&C Liquidating Corp., Emerson & Cuming, Inc.), Southern Oil, Resin & Fiberglass, Inc., Water Street Corporation, Axial Basin Ranch Company, CC Partners (f/k/a Cross Country Staffing), Hayden-Gulch West Coal Company, and H-G Coal Company.

States Bankruptcy Court for the District of Delaware. The Debtors' bankruptcy cases are being jointly administered under Case No. 01-01139 (Jointly Administered).

2. On or about March 20, 2002, CSX timely filed a proof of claim asserting a general unsecured claim in the amount of \$24,648.04 ("Claim No. 673")² for, *inter alia*, freight and switching charges. As of September 27, 2006, the total amount due and owing from the Debtors to CSX on Claim No. 673 is \$19,124.42. Copies of the outstanding freight and incidental bills are attached hereto as Exhibit A.

3. On October 3, 2006, this Court entered its Order Pursuant to Bankruptcy Code Section 1121(d) Extending Debtors' Exclusive Periods in Which to File a Chapter 11 Plan and to Solicit Votes Thereon, extending the Debtors' exclusive period to file a plan until the Court's July 2007 omnibus hearing date. As of the date of filing of this Response, the Debtors have not filed a proposed plan of reorganization.

4. On September 18, 2006, the Debtors filed the Claim Objection. The Debtors seek to have Claim No. 673 disallowed and expunged on the ground that a review of the Debtors' books and records indicates that the Debtors have no liability for the amounts claimed and CSX failed to file the requisite documentation in support of Claim No. 673. Claim Objection at ¶¶ 6, 11. In their attachments to the Claim Objection, the Debtors specify the following reasons for the proposed disallowance (i) "Two invoices belong to non-debtor entities Dow Hamshire and Scotts, and others should not have been cancelled, claimant not able to provide invoice copies" and (ii) "Documentation not sufficient to determine liability." Claim Objection at Attachment A, Attachment F.

² By order dated April 22, 2002, this Court entered its Claims Bar Date Notice (the "Bar Date Order"). The Bar Date Order established a deadline of March 31, 2003 for filing proofs of claim in the Debtors' cases.

ARGUMENT

5. Federal Rule of Bankruptcy Procedure 3001(f) provides that a validly filed proof of claim “shall constitute prima facie evidence of the validity and amount of the claim.” FED. R. BANKR. P. 3001(f); see also *In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173 (3rd Cir. 1992). The party objecting to the proof of claim bears the burden to “produce evidence sufficient to negate the prima facie validity of the filed claim.” *Id.*; see also 9 *COLLIER ON BANKRUPTCY* at ¶ 3001.09[2] (15th ed. 1996).

6. In this case, Claim No. 673, along with the exhibits attached thereto and the copies of the bills attached hereto, constitutes prima facie evidence of the validity and amount of CSX's claim against the Debtors' estates. Thus, the Debtors bear the burden of presenting affirmative evidence to demonstrate why CSX's claim is invalid and have failed to offer any evidence to establish the invalidity of the claim, other than the vague contentions in the Declaration of Mark A. Shelnitz in Support of Debtors' Seventeenth Omnibus Objection to Claims (Substantive) that Claim No. 673 is not supported by the Debtors' books and records, the Debtors believe the amounts are not the liability of the Debtors' estate, and CSX failed to file requisite documentation in support of its claim.

7. In the event that the parties are unable to reach a consensual resolution of the alleged discrepancy between Claim No. 673 and the Debtors' books and records, CSX requests an evidentiary hearing on the Objection.

CONCLUSION

WHEREFORE, CSX respectfully request that the Court enter an Order overruling the Claim Objection, allowing Claim No. 673 as a general unsecured claim in the amount of \$19,124.42 and granting such other and further relief as the Court deems appropriate.

Dated: October 6, 2006

Respectfully submitted,

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CERTIFICATE OF SERVICE

Barbara Stratton hereby certifies that a true copy of the foregoing Response of CSX Transportation, Inc. to the Debtors' Seventeenth Omnibus Objection to Claims (Substantive) was served on October 6, 2006 via (1) ECF delivery on all parties who receive electronic notice in these cases and (2) by Elizabeth L. Gunn of McGuireWoods LLP via first class regular mail to the parties listed on Exhibit A hereto.

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EXHIBIT A

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